

REMARKS

The rejection of Claim 9 under 35 U.S.C. §102(b) as anticipated by U.S. 5,342,189 (Inamura et al), is respectfully traversed. Inamura et al discloses an insert type extrusion die for making small parts for use in electrical, automotive and other industries, and particularly illustrates a die for making multi-cavity flat aluminum tubes. Inamura et al's insert type extrusion die is composed of a male member and a female member. In the device of Inamura et al, as shown in Figures 8-10 therein, a comb-shaped part 22 of the male member is inserted into the die cavity 26a of 26 of the female member and in cooperation therewith defines the cross-sectional shape of the multi-cavity flat tube extrusion (column 6, lines 37-45). Contrary to the finding by the Examiner, Inamura et al's insert type extrusion die does **not** comprise a pair of parallel exit slits and a plurality of exit ports located between the pair of parallel exit slits and evenly spaced along the line parallel to the pair of parallel exit slits. Figure 2 of Inamura et al does **not** depict parallel exit slits and a plurality of exit ports in the relationship required by the present claims.

If the Examiner continues to rely on Inamura et al, the Examiner is respectfully requested to identify by the particular indicia used in Inamura et al's figures, which indicia the Examiner finds represent the presently-recited parallel exit slits and plurality of exit ports.

For all the above reasons, it is respectfully requested that the rejection over Inamura et al be withdrawn.

The rejection of Claim 10 under 35 U.S.C. §102(b) as anticipated by U.S. 5,269,995 (Ramanathan et al), is respectfully traversed. Ramanathan et al discloses a process and apparatus for the coextrusion of a multi-layer polymeric body which incorporates protective boundary layers into the body, protecting the layers from instability and breakup during layer formation and multiplication, which process includes the steps of providing at least first and

second streams of heat plastified extrudable thermoplastic material which are combined to form a composite stream having the first substreams and second substreams interdigitated, and wherein a third stream of heat plastified thermoplastic material is supplied to the exterior surfaces of the composite stream to form protective boundary layers adjacent the walls of the coextrusion apparatus through which the heat plastified polymer streams pass (Abstract).

Ramanathan et al's invention addresses a problem in what is known as microlayer coextrusion technology in which a multilayered body is extruded in which each layer is generally parallel to the major surface of adjacent layers (column 1, lines 11-45).

Ramanathan et al does **not** disclose an extrusion die comprising a pair of parallel exit slits and a plurality of exit ports located between the pair of parallel exit slits and evenly spaced along a line parallel to the pair of parallel exit slits. Nor is the Examiner correct that Claim 10 is a product-by-process claim. Rather, Claim 10 simply characterizes the claimed extrusion die as one adapted for producing a multilayer plastic composite, having the structure recited therein, by the method recited therein. The Examiner has not identified how the apparatus of Ramanathan et al could possibly be used in a method to form the product recited in Claim 10, which would have an appearance on the order of that shown in Figures 1 or 2 herein. Indeed, as discussed above, Ramanathan et al's process and apparatus forms a multilayer product wherein the layers are generally parallel to the major surface of adjacent layers, and disclose and suggest nothing with regard to any discontinuity, as required by Claim 10.

For all the above reasons, it is respectfully requested that the rejection over Ramanathan et al be withdrawn.

Applicants respectfully traverse the finality of the Office Action, since all the new rejections were not necessitated by Applicants' amendment. Indeed, Claim 9 was not

amended at all, yet a new ground of rejection has been made thereof. This was improper, as set forth in MPEP 706.07(a), which reads in pertinent part:

[A] second or any subsequent action on the merits . . . will not be made final if it includes a rejection, on newly cited art, . . . **of any claim not amended** . . . in spite of the fact that other claims may have been amended to require newly cited art.

(Emphasis added.)

Thus, if the Examiner does not find that the present response puts the application in condition for allowance, then the Examiner is respectfully requested to withdraw the finality of the rejection, and enter the present amendment as a matter of right.

All of the presently pending claims in this application are now believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Norman F. Oblon
Attorney of Record
Registration No. 24,618

Harris A. Pitlick
Registration No. 38,779



22850

(703) 413-3000
Fax #: (703) 413-2220
NFO:HAP:cja

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